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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 188

01/12/2017 Authored by Nash, Drazkowski, Rarick, Lucero, Heintzeman and others
The bill was read for the first time and referred to the Committee on Public Safety and Security Policy and Finance

1.1 A bill for an act
1.2 relating to public safety; providing for the right to carry without a permit; providing
1.3 for an optional permit to carry; amending Minnesota Statutes 2016, section 624.714,
1.4 subdivisions 2, 3, 7, 15, 20, 23, by adding subdivisions; repealing Minnesota
1.5 Statutes 2016, sections 624.714, subdivisions 1a, 1b, 16; 624.7181.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2016, section 624.714, is amended by adding a subdivision
1.8 to read:

1.9 Subd. 1c. No permit required. (a) The legislature of the state of Minnesota recognizes
1.10 and declares that the second amendment of the United States Constitution guarantees the
1.11 fundamental, individual right to keep and bear arms.

1.12 (b) A person who is not prohibited from possessing a firearm by any law of this state or
1.13 any federal law shall have the right to carry, hold, or possess a firearm in a motor vehicle,
1.14 snowmobile, or boat, or on or about the person's clothes or the person, or otherwise in
1.15 possession or control in a public place.

1.16 (c) For the purposes of this section, "public place" means property owned, leased, or
1.17 controlled by a governmental unit and private property that is regularly and frequently open
1.18 to or made available for use by the public in sufficient numbers to give clear notice of the
1.19 property's current dedication to public use but does not include: a person's dwelling house
1.20 or premises, the place of business owned or managed by the person, or land possessed by
1.21 the person; a gun show, gun shop, or hunting or target shooting facility; or the woods, fields,
1.22 or waters of this state where the person is present lawfully for the purpose of hunting or
1.23 target shooting or other lawful activity involving firearms.

2.1 Sec. 2. Minnesota Statutes 2016, section 624.714, is amended by adding a subdivision to
2.2 read:

2.3 Subd. 1d. **Optional carry permit.** A person may apply for an optional permit to carry
2.4 a pistol as provided in this section.

2.5 Sec. 3. Minnesota Statutes 2016, section 624.714, subdivision 2, is amended to read:

2.6 Subd. 2. **Where application made; authority to issue permit; criteria; scope.** (a)
2.7 Applications by Minnesota residents for optional permits to carry shall be made to the county
2.8 sheriff where the applicant resides. Nonresidents, as defined in section 171.01, subdivision
2.9 42, may apply to any sheriff.

2.10 (b) Unless a sheriff denies a permit under the exception set forth in subdivision 6,
2.11 paragraph (a), clause (3), a sheriff must issue a permit to an applicant if the person:

2.12 (1) has training in the safe use of a pistol;

2.13 (2) is at least 21 years old and a citizen or a permanent resident of the United States;

2.14 (3) completes an application for a permit;

2.15 (4) is not prohibited from possessing a firearm under the following sections:

2.16 (i) 518B.01, subdivision 14;

2.17 (ii) 609.224, subdivision 3;

2.18 (iii) 609.2242, subdivision 3;

2.19 (iv) 609.749, subdivision 8;

2.20 (v) 624.713;

2.21 (vi) 624.719;

2.22 (vii) 629.715, subdivision 2;

2.23 (viii) 629.72, subdivision 2; or

2.24 (ix) any federal law; and

2.25 (5) is not listed in the criminal gang investigative data system under section 299C.091.

2.26 (c) A permit to carry a pistol issued or recognized under this section is a state permit
2.27 and is effective throughout the state.

2.28 (d) A sheriff may contract with a police chief to process permit applications under this
2.29 section. If a sheriff contracts with a police chief, the sheriff remains the issuing authority

3.1 and the police chief acts as the sheriff's agent. If a sheriff contracts with a police chief, all
3.2 of the provisions of this section will apply.

3.3 Sec. 4. Minnesota Statutes 2016, section 624.714, subdivision 3, is amended to read:

3.4 Subd. 3. **Form and contents of application.** (a) Applications for optional permits to
3.5 carry must be an official, standardized application form, adopted under section 624.7151,
3.6 and must set forth in writing only the following information:

3.7 (1) the applicant's name, residence, telephone number, if any, and driver's license number
3.8 or state identification card number;

3.9 (2) the applicant's sex, date of birth, height, weight, and color of eyes and hair, and
3.10 distinguishing physical characteristics, if any;

3.11 (3) the township or statutory city or home rule charter city, and county, of all Minnesota
3.12 residences of the applicant in the last five years, though not including specific addresses;

3.13 (4) the township or city, county, and state of all non-Minnesota residences of the applicant
3.14 in the last five years, though not including specific addresses;

3.15 (5) a statement that the applicant authorizes the release to the sheriff of commitment
3.16 information about the applicant maintained by the commissioner of human services or any
3.17 similar agency or department of another state where the applicant has resided, to the extent
3.18 that the information relates to the applicant's eligibility to possess a firearm; and

3.19 (6) a statement by the applicant that, to the best of the applicant's knowledge and belief,
3.20 the applicant is not prohibited by law from possessing a firearm.

3.21 (b) The statement under paragraph (a), clause (5), must comply with any applicable
3.22 requirements of Code of Federal Regulations, title 42, sections 2.31 to 2.35, with respect
3.23 to consent to disclosure of alcohol or drug abuse patient records.

3.24 (c) An applicant must submit to the sheriff an application packet consisting only of the
3.25 following items:

3.26 (1) a completed application form, signed and dated by the applicant;

3.27 (2) an accurate photocopy of the certificate described in subdivision 2a, paragraph (c),
3.28 that is submitted as the applicant's evidence of training in the safe use of a pistol; and

3.29 (3) an accurate photocopy of the applicant's current driver's license, state identification
3.30 card, or the photo page of the applicant's passport.

4.1 (d) In addition to the other application materials, a person who is otherwise ineligible
4.2 for a permit due to a criminal conviction but who has obtained a pardon or expungement
4.3 setting aside the conviction, sealing the conviction, or otherwise restoring applicable rights,
4.4 must submit a copy of the relevant order.

4.5 (e) Applications must be submitted in person.

4.6 (f) The sheriff may charge a new application processing fee in an amount not to exceed
4.7 the actual and reasonable direct cost of processing the application or \$100, whichever is
4.8 less. Of this amount, \$10 must be submitted to the commissioner and deposited into the
4.9 general fund.

4.10 (g) This subdivision prescribes the complete and exclusive set of items an applicant is
4.11 required to submit in order to apply for a new or renewal permit to carry. The applicant
4.12 must not be asked or required to submit, voluntarily or involuntarily, any information, fees,
4.13 or documentation beyond that specifically required by this subdivision. This paragraph does
4.14 not apply to alternate training evidence accepted by the sheriff under subdivision 2a,
4.15 paragraph (d).

4.16 (h) Forms for new and renewal applications must be available at all sheriffs' offices and
4.17 the commissioner must make the forms available on the Internet.

4.18 (i) Application forms must clearly display a notice that a permit, if granted, is void and
4.19 must be immediately returned to the sheriff if the permit holder is or becomes prohibited
4.20 by law from possessing a firearm. The notice must list the applicable state criminal offenses
4.21 and civil categories that prohibit a person from possessing a firearm.

4.22 (j) Upon receipt of an application packet and any required fee, the sheriff must provide
4.23 a signed receipt indicating the date of submission.

4.24 Sec. 5. Minnesota Statutes 2016, section 624.714, subdivision 7, is amended to read:

4.25 Subd. 7. **Permit card contents; expiration; renewal.** (a) Optional permits to carry must
4.26 be on an official, standardized permit card adopted by the commissioner, containing only
4.27 the name, residence, and driver's license number or state identification card number of the
4.28 permit holder, if any.

4.29 (b) The permit card must also identify the issuing sheriff and state the expiration date
4.30 of the permit. The permit card must clearly display a notice that a permit, if granted, is void
4.31 and must be immediately returned to the sheriff if the permit holder becomes prohibited by
4.32 law from possessing a firearm.

5.1 (c) A permit to carry a pistol issued under this section expires five years after the date
5.2 of issue. It may be renewed in the same manner and under the same criteria which the
5.3 original permit was obtained, subject to the following procedures:

5.4 (1) no earlier than 90 days prior to the expiration date on the permit, the permit holder
5.5 may renew the permit by submitting to the appropriate sheriff the application packet described
5.6 in subdivision 3 and a renewal processing fee not to exceed the actual and reasonable direct
5.7 cost of processing the application or \$75, whichever is less. Of this amount, \$5 must be
5.8 submitted to the commissioner and deposited into the general fund. The sheriff must process
5.9 the renewal application in accordance with subdivisions 4 and 6; and

5.10 (2) a permit holder who submits a renewal application packet after the expiration date
5.11 of the permit, but within 30 days after expiration, may renew the permit as provided in
5.12 clause (1) by paying an additional late fee of \$10.

5.13 (d) The renewal permit is effective beginning on the expiration date of the prior permit
5.14 to carry.

5.15 Sec. 6. Minnesota Statutes 2016, section 624.714, subdivision 15, is amended to read:

5.16 Subd. 15. **Commissioner; contracts; database.** (a) The commissioner must maintain
5.17 an automated database of persons ~~authorized to carry pistols~~ issued an optional permit to
5.18 carry a pistol under this section that is available 24 hours a day, seven days a week, only to
5.19 law enforcement agencies, including prosecutors carrying out their duties under subdivision
5.20 8a, to verify the validity of a permit.

5.21 (b) The commissioner may maintain a separate automated database of denied applications
5.22 for optional permits to carry and of revoked permits that is available only to sheriffs
5.23 performing their duties under this section containing the date of, the statutory basis for, and
5.24 the initiating agency for any permit application denied or permit revoked for a period of six
5.25 years from the date of the denial or revocation.

5.26 (c) The commissioner may contract with one or more vendors to implement the
5.27 commissioner's duties under this section.

5.28 Sec. 7. Minnesota Statutes 2016, section 624.714, subdivision 20, is amended to read:

5.29 Subd. 20. **Monitoring.** (a) By March 1, 2004, and each year thereafter, the commissioner
5.30 must report to the legislature on:

6.1 (1) the number of optional permits applied for, issued, suspended, revoked, and denied,
6.2 further categorized by the age, sex, and zip code of the applicant or permit holder, since the
6.3 previous submission, and in total;

6.4 (2) the number of optional permits currently valid;

6.5 (3) the specific reasons for each suspension, revocation, and denial and the number of
6.6 reversed, canceled, or corrected actions;

6.7 (4) without expressly identifying an applicant, the number of denials or revocations
6.8 based on the grounds under subdivision 6, paragraph (a), clause (3), the factual basis for
6.9 each denial or revocation, and the result of an appeal, if any, including the court's findings
6.10 of fact, conclusions of law, and order;

6.11 (5) the number of convictions and types of crimes committed since the previous
6.12 submission, and in total, by individuals ~~with permits~~ legally carrying pistols as provided by
6.13 this section including data as to whether a firearm lawfully carried solely by virtue of a
6.14 ~~permit~~ this section was actually used in furtherance of the crime;

6.15 (6) to the extent known or determinable, data on the lawful and justifiable use of firearms
6.16 by ~~permit holders~~ individuals legally carrying pistols as provided by this section; and

6.17 (7) the status of the segregated funds reported to the commissioner under subdivision
6.18 21.

6.19 (b) Sheriffs and police chiefs must supply the Department of Public Safety with the basic
6.20 data the department requires to complete the report under paragraph (a). Sheriffs and police
6.21 chiefs may submit data classified as private to the Department of Public Safety under this
6.22 paragraph.

6.23 (c) Copies of the report under paragraph (a) must be made available to the public at the
6.24 actual cost of duplication.

6.25 (d) Nothing contained in any provision of this section or any other law requires or
6.26 authorizes the registration, documentation, collection, or providing of serial numbers or
6.27 other data on firearms or on firearms' owners.

6.28 Sec. 8. Minnesota Statutes 2016, section 624.714, subdivision 23, is amended to read:

6.29 Subd. 23. **Exclusivity.** This section sets forth the complete and exclusive criteria and
6.30 procedures for the issuance of optional permits to carry and establishes their nature and
6.31 scope. No sheriff, police chief, governmental unit, government official, government
6.32 employee, or other person or body acting under color of law or governmental authority may

7.1 change, modify, or supplement these criteria or procedures, or limit the exercise of a ~~permit~~
7.2 the right to carry a firearm.

7.3 Sec. 9. **REPEALER.**

7.4 Minnesota Statutes 2016, sections 624.714, subdivisions 1a, 1b, and 16; and 624.7181,
7.5 are repealed.

624.714 CARRYING OF WEAPONS WITHOUT PERMIT; PENALTIES.

Subd. 1a. **Permit required; penalty.** A person, other than a peace officer, as defined in section 626.84, subdivision 1, who carries, holds, or possesses a pistol in a motor vehicle, snowmobile, or boat, or on or about the person's clothes or the person, or otherwise in possession or control in a public place, as defined in section 624.7181, subdivision 1, paragraph (c), without first having obtained a permit to carry the pistol is guilty of a gross misdemeanor. A person who is convicted a second or subsequent time is guilty of a felony.

Subd. 1b. **Display of permit; penalty.** (a) The holder of a permit to carry must have the permit card and a driver's license, state identification card, or other government-issued photo identification in immediate possession at all times when carrying a pistol and must display the permit card and identification document upon lawful demand by a peace officer, as defined in section 626.84, subdivision 1. A violation of this paragraph is a petty misdemeanor. The fine for a first offense must not exceed \$25. Notwithstanding section 609.531, a firearm carried in violation of this paragraph is not subject to forfeiture.

(b) A citation issued for violating paragraph (a) must be dismissed if the person demonstrates, in court or in the office of the arresting officer, that the person was authorized to carry the pistol at the time of the alleged violation.

(c) Upon the request of a peace officer, a permit holder must write a sample signature in the officer's presence to aid in verifying the person's identity.

(d) Upon the request of a peace officer, a permit holder shall disclose to the officer whether or not the permit holder is currently carrying a firearm.

Subd. 16. **Recognition of permits from other states.** (a) The commissioner must annually establish and publish a list of other states that have laws governing the issuance of permits to carry weapons that are not similar to this section. The list must be available on the Internet. A person holding a carry permit from a state not on the list may use the license or permit in this state subject to the rights, privileges, and requirements of this section.

(b) Notwithstanding paragraph (a), no license or permit from another state is valid in this state if the holder is or becomes prohibited by law from possessing a firearm.

(c) Any sheriff or police chief may file a petition under subdivision 12 seeking an order suspending or revoking an out-of-state permit holder's authority to carry a pistol in this state on the grounds set forth in subdivision 6, paragraph (a), clause (3). An order shall only be issued if the petitioner meets the burden of proof and criteria set forth in subdivision 12. If the court denies the petition, the court must award the permit holder reasonable costs and expenses including attorney fees. The petition may be filed in any county in the state where a person holding a license or permit from another state can be found.

(d) The commissioner must, when necessary, execute reciprocity agreements regarding carry permits with jurisdictions whose carry permits are recognized under paragraph (a).

624.7181 RIFLES AND SHOTGUNS IN PUBLIC PLACES.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "BB gun" means a device that fires or ejects a shot measuring .18 of an inch or less in diameter.

(b) "Carry" does not include:

(1) the carrying of a BB gun, rifle, or shotgun to, from, or at a place where firearms are repaired, bought, sold, traded, or displayed, or where hunting, target shooting, or other lawful activity involving firearms occurs, or at funerals, parades, or other lawful ceremonies;

(2) the carrying by a person of a BB gun, rifle, or shotgun that is unloaded and in a gun case expressly made to contain a firearm, if the case fully encloses the firearm by being zipped, snapped, buckled, tied, or otherwise fastened, and no portion of the firearm is exposed;

(3) the carrying of a BB gun, rifle, or shotgun by a person who has a permit under section 624.714;

(4) the carrying of an antique firearm as a curiosity or for its historical significance or value; or

(5) the transporting of a BB gun, rifle, or shotgun in compliance with section 97B.045.

(c) "Public place" means property owned, leased, or controlled by a governmental unit and private property that is regularly and frequently open to or made available for use by the public in sufficient numbers to give clear notice of the property's current dedication to public use but does not include: a person's dwelling house or premises, the place of business owned or managed by

APPENDIX

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the person, or land possessed by the person; a gun show, gun shop, or hunting or target shooting facility; or the woods, fields, or waters of this state where the person is present lawfully for the purpose of hunting or target shooting or other lawful activity involving firearms.

Subd. 2. **Penalties.** Whoever carries a BB gun, rifle, or shotgun on or about the person in a public place is guilty of a gross misdemeanor. A person under the age of 21 who carries a semiautomatic military-style assault weapon, as defined in section 624.712, subdivision 7, on or about the person in a public place is guilty of a felony.

Subd. 3. **Exceptions.** This section does not apply to officers, employees, or agents of law enforcement agencies or the armed forces of this state or the United States, or private detectives or protective agents, to the extent that these persons are authorized by law to carry firearms and are acting in the scope of their official duties.